

No. 03-16542

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CAROL J. NELSON,

Plaintiff-Appellee

v.

ROBERT ALAN JONES,

Defendant-Appellant

ON APPEAL FROM THE ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF HAWAII
No. 01-CV-182-HG

OPENING BRIEF FOR THE APPELLANT

ROBERT ALAN JONES
Pro Se
1061 E. Flamingo Road, Suite 7
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ISSUES PRESENTED

1. Whether the District Court erred in the construction and application of State of Hawaii law in the instant underlying case wherein the Erie doctrine applied to make Hawaii law the dispositive substantive law, and thus erred in granting summary judgment against the Defendant/Appellant where it concluded as a matter of law that Defendant had no ownership rights to the subject property?
2. Whether the District Court erred in granting summary judgment against the Defendant/Appellant where the Plaintiff/Appellee presented insufficient evidence of an absence of a genuine issue of material fact regarding the existence of a material breach of the agreement and total failure of consideration?
3. Whether the District Court erred in the construction and application of Hawaii law where it exercised its equity powers to cancel the agreement and impose a forfeiture, and thus erred in granting summary judgment against the Defendant/Appellant imposing a total forfeiture of Defendant's interest, investment, and equity in the subject real property?

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

CAROL J. NELSON,)	Civil No. 01-00182 HG-LEK
)	
Plaintiff,)	
vs.)	
)	
ALAN JONES; DOES 1-30,)	
)	
Defendants.)	
)	
ROBERT ALAN JONES, a Nevada)	
resident,)	
)	
Counterclaimant)	
)	
vs.)	
)	
CAROL NELSON, a Hawaii)	CERTIFICATE OF SERVICE
resident, MICHAEL CETRARO,)	
a Montana resident, CHARLES)	
HEAUKULANI, Esq., a Hawaii)	
resident, ROBERT SHELBY,)	
Esq., a Utah resident, MICHAEL)	
BILANZICH, a Utah resident)	
and JEFFREY GROSS, Esq., a)	
Utah resident,)	
)	
Counterclaim)	
Defendants.)	
)	

CERTIFICATE OF SERVICE

I hereby certify that on the below date a true and correct copy of the

foregoing document was served upon the following individuals by depositing same in the United States mail, postage prepaid:

Robert E. Chapman
Mary Martin
Topa Tower, Suite 2100
700 Bishop Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, February 8, 2006


ENVER W. PAINTER, JR.
Attorney for Plaintiff/Counterclaim
Defendant Carol J. Nelson and Counterclaim
Defendant Michael Cetraro